

OECA and Regional Report

Week Ending July 15, 2016

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Office of Compliance

Regular Highlights:

Enforcement and Compliance Assurance Issues

ICIS-NPDES Mini-Webinar 2nd Session for New Jersey DEP

OC's ICIS Customer Support team is providing four new mini-webinar sessions for ICIS-NPDES users. The second session, held on Tuesday, July 12th, included five attendees from New Jersey DEP and one from EPA Region 2. The webinar demonstrated how to review existing current and historical permit limit requirements, how to enter permitted features, limit sets, limit parameters and narrative conditions in ICIS. Contact: Cathy Bius, 214-665-6456; Edward Voisin, 202-564-1621; Jake Nguyen, 202-564-8298.

NetDMR Training for Regulatory Authorities

On Tuesday, July 13, 2016, OC provided a webinar and on-line demonstration, to an estimated 19 attendees from various states and regions on NetDMR. Topics covered were how to create an account, managing access, approving Signatory roles, reviewing CORs, and network activity. Common technical issues were discussed in detail, which included the steps the regulatory authorities will take to troubleshoot and resolve the issues. NetDMR is a web-based tool that enables National Pollutant Discharge Elimination System (NPDES) permittees to electronically sign and submit their Discharge Monitoring Reports. Contact: Cathy Bius, 214-665-6456; Jake Nguyen, 202-564-8298.

Office of Federal Activities

Regular Highlights:

Enforcement and Compliance Assurance Issues

July 2016 National Sustainability Meeting

OFA staff from HQs joined NEPA staff from Region 10 in a morning session to informally discuss the ways the NEPA program routinely integrates sustainability in to our program work and to discuss with other attendees ways to achieve increased awareness of sustainability and agency goals. Contact: Elaine Suriano, 202-564-7261; Megan Barnhart, 202-564-5936.

OFA Conducts Agency-Wide Training in National Historic Preservation Act Compliance

OFA recently conducted training on National Historic Preservation Act (NHPA) compliance for EPA programs. This installment of OFA's NHPA training series featured a discussion of the National Register of Historic Places and its role in NHPA compliance. The training was held at EPA HQ and included a number of virtual attendees at several EPA regions through the auspices of OECA's National Enforcement Training Institute (NETI). NETI makes virtual attendance possible for all of its trainings: recorded trainings on NHPA compliance, as well as other topics, can be viewed and experienced with the original narration via the NETI website

(www.epa.gov/compliance/national-enforcement-training-institute-neti-elearning-center). These trainings are self-implementing and an integral part of OFA's efforts to educate EPA managers and staff on the need for NHPA compliance across all program areas. This is especially timely in view of the 50th anniversary of the NHPA in 2016. Contact: Matt Nowakowski, 202-564-7156.

Office of Site Remediation Enforcement

Regular Highlights:

Enforcement and Compliance Assurance Issues

Federal Magistrate Recommends Court Dismiss Atlantic Richfield Company's Lawsuit for Declaratory Relief and Injunctive Relief Barring Residential Landowners from Proceeding with Restoration Damages at Anaconda Smelter Superfund Site [*Atlantic Richfield Company v. Gregory Christian, et al.*, CV 15-83-BU-BMM-JCL (D. Mont., July 8, 2016)]

On July 8, 2016, a magistrate judge (magistrate) of the United States District Court for the district of Montana (the district court), granted residential landowners motion for summary judgment dismissing Atlantic Richfield Company's (ARCO) lawsuit against residential landowners in *Atlantic Richfield Company v. Gregory Christian, et al.*, CV 15-83-BU-BMM-JCL (D. Mont., July 8, 2016). On December 22, 2015, Atlantic Richfield Company (ARCO) filed a lawsuit in federal court in Montana against residential land owners, living with the area identified as the Anaconda Superfund Site (the Anaconda Site). ARCO's lawsuit is in response to plaintiffs' state court lawsuit seeking restoration damages for their homes. It alleges plaintiffs' requested relief is impermissible under CERCLA §113(h) and seeks to enjoin them from proceeding with requested restoration actions. Landowners filed a motion to in federal court to dismiss ARCO's complaint for lack of subject matter jurisdiction and failure to state a claim upon which relief can be granted pursuant to Federal Rule of Civil Procedure 12(b). The parties subsequently filed cross-motions for summary judgment pursuant to Federal Rule of Civil Procedure 56. The district court asked the magistrate to review the proceedings and make a recommendation on how the district court should respond to the cross-motions for summary judgment.

The magistrate has issued a ruling in favor of the residential landowners citing controlling Ninth Circuit caselaw. The magistrate stated, the Ninth Circuit has made clear that "[a] declaratory judgment plaintiff may not assert a federal question in his complaint if, but for the declaratory judgment procedure, that question would arise only as a federal defense to a state law claim bought by the declaratory judgment defendant in state court." Thus, but for ARCO's declaratory judgment action, a federal question regarding application of §113(h) would arise only as a defense to Landowners' claim for restoration damages. Landowners' affirmative claim for restoration damages is a state common law claim, and does not arise under federal law. The magistrate said ARCO's carefully crafted claim for declaratory relief is nothing more than an attempt on ARCO's part, to circumvent the rule that raising a federal defense to a state law claim is not sufficient for purposes of establishing federal question jurisdiction. Accordingly, it held that under Ninth Circuit authority, ARCO's claims for declaratory and injunctive relief cannot be characterized as affirmative federal claims. As a result they do not raise a federal question over which the district court may exercise jurisdiction. The magistrate then noted that it will be for the state court to decide whether the restoration plan residential landowners have proposed in support of their state law claim for restoration damages constitutes an impermissible challenge to

ongoing CERCLA cleanup activities at the Anaconda Site in violation of § 113(h). Contact:
Clarence Featherson, 202-564-4234.

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Region 1

Regular Highlights:

Enforcement and Compliance Assurance Issues

Region 1 Reaches TSCA PCB Settlement with Eversource Energy [TSCA-01-2016-0044]

On July 13, 2016, Region 1 issued a signed Consent Agreement and Final Order with The Connecticut Light and Power Company dba Eversource Energy (“Eversource”) regarding alleged TSCA PCB violations related to a PCB transformer spill in Waterbury, Connecticut. Eversource agreed to pay \$47,000 in civil penalties to resolve the five alleged violations.

In January 2016, an Eversource transformer in storage for disposal since September 2014 had a spill of approximately 50 gallons of PCB oil at a concentration of 318 ppm. Eversource has since addressed the spill and removed contaminated material. On June 1, 2016, EPA notified Eversource of its potential enforcement action. The parties held subsequent discussions and reached resolution on a penalty. Contact: Marianne Milette, 617-918-1854; Tim Conway, 617-918-1705.

Region 1 Files Consent Agreement and Final Order Resolving CWA and EPCRA Violations [CWA-01-2016-0022; EPCRA-01-2016-0023]

On July 11, 2016, Region 1 filed a consent agreement and final order resolving Clean Water Act (“CWA”) and Emergency Planning and Community Right to Know (“EPCRA”) violations at The Maine Wood Treathers, Inc. facility located in Mechanic Falls, Maine. In early January 2016, Region 1 issued a proposed administrative consent agreement and final order against the company alleging that it: (1) discharged stormwater from point sources to navigable waters in violation of its NPDES permit; (2) failed to comply with various terms of its permit requiring training, recordkeeping, inspections, monitoring and maintaining best management practices; and (3) failed to comply with reporting requirements for copper compounds, a regulated toxic chemical under EPCRA, for the reporting years 2010, 2011, and 2013.

Region 1 documented these violations during inspections of the Site on December 13 and 15, 2014. After the inspections, the company acted promptly to bring its facility into compliance with both EPCRA and the CWA. The company has agreed to pay a \$15,000 penalty, based on its ability to pay, to resolve this matter. The Region has coordinated with the State of Maine in this action. Contact: Cynthia Catri, 617-918-1888; Alex Rosenberg, 617-918-1709; Chris Rascher, 617-918-1834; Jeff Kopf, 617-918-1796.

Region 1 Files Consent Agreement and Final Order Resolving Self-Disclosed TSCA/PCB Violations at Defense Contractor Facility in Maine [TSCA-01-2016-0040]

On July 8, 2016, Region 1 filed a consent agreement and final order (“CAFO”) that will simultaneously initiate and resolve a Toxics Substances Control Act (“TSCA”) enforcement action against General Dynamics - OTS, Inc. (“GD-OTS”) for violations of the PCB Regulations

found at 40 C.F.R. Part 761. GD-OTS is the owner/operator of facility located at 291 North Street in Saco, Maine that manufactures products primarily for the U.S. Department of Defense.

In November 2013, GD-OTS was in the process of developing a repowering plan for the facility that included the decommissioning and disposal of all of the PCB transformers and capacitors at the facility. In reviewing its records regarding the transformers and capacitors, GD-OTS identified potential violations of certain requirements of the PCB Regulations. Among other things, GD-OTS found: (1) no documentation that its transformers had been registered with EPA by December 28, 1998 [as required by 40 C.F.R. § 761.30(a)(1)(vi)(A)]; and (2) no annual records or written annual document logs [as required by 40 C.F.R. § 761.180(a)]. GD-OTS originally self-disclosed its findings via submissions to Region 1 in November 2013 and January 2014.

As a result, Region 1 determined that: (1) GD-OTS was not authorized to use the 14 PCB transformers since it had acquired the facility in 2000; and (2) GD-OTS had failed to keep annual records or written annual document logs for the transformers. Under the terms of the CAFO, GD-OTS will pay a \$8,500 penalty in settlement of this action. The settlement penalty was based in part on EPA's Audit Policy since GD-OTS self-disclosed the violations. Contact: Marianne Milette, 617-918-1854; Bill Chin, 617-918-1728.

Settlement Agreement for Groundwater Cleanup Issued at Nuclear Metals Superfund Site, Concord, MA [CERCLA-01-2015-0008]

On July 7, 2016, Region 1 signed on to an Administrative Settlement Agreement and Order on Consent ("Settlement Agreement") with four potentially responsible parties to address contaminated groundwater at the Nuclear Metals, Inc. Superfund Site in Concord, Massachusetts. Under the Settlement Agreement, the PRPs have agreed to pay for and perform a Non-Time Critical Removal Action at the Site which includes: design and construction of an ex-situ groundwater treatment system for VOCs and 1,4-dioxane; up to four years of operation, maintenance, and monitoring; and to pay 100% of future response costs related to the NTCRA. The estimated cost of the NTCRA and future response costs is \$5,700,000.

The NTCRA will address a migrating groundwater plume contaminated with volatile organic compounds ("VOCs") and 1,4-dioxane at the Site. The cleanup actions under this NTCRA are part of the remedy selected for the Site in the 2015 Record of Decision. This NTCRA is being undertaken to address the migrating groundwater plume in an accelerated manner as the plume could have a significant impact on the town of Acton public water supply wellfield if it continues to migrate. Contact: Sarah Meeks, 617-918-1438; Melissa Taylor, 617-918-1310.

Region 2

Regular Highlights:

Enforcement and Compliance Assurance Issues

CERCLA Administrative Order on Consent Issued to NYC Regarding Brooklyn Site

On July 7, 2016, Region 2 finalized and issued an administrative order on consent (AOC) under CERCLA to the City of New York for a removal action at the Columbia Smelting and Refining Works Site, located in the Red Hook section of Brooklyn. Columbia Smelting operated a lead smelter at that location from the late 1920s through the late 1930s. The property was acquired by the City of New York around 1940, and it has been operated as a public park area since that time. In 2014-15, sampling data showed elevated levels of metals, including lead, in ballfields near a public housing complex in the area. The ballfields therefore were closed and access was restricted. Under the AOC, the City has agreed to perform a removal action to cap five ballfields with a demarcation layer and a foot of clean soil and establish a program to maintain the cap. The estimated cost of the work is \$28.5 million. Contact: Andrew Praschak, 212-637-3172; James Doyle, 212-637-3165.

Sentencing in *U.S. v. Frisby*

On July 13, Judge Glenn Suddaby in the Northern District of New York sentenced David Frisby to 18 months of incarceration and restitution to the nine victims in the amount of \$144,216. Frisby pleaded guilty in December 2015 to one count of Conspiracy to Commit Wire Fraud, in violation of 18 U.S.C. 1349 for his role in a scheme that solicited drained battery scrap for recycling. There were, in fact, no recycling facilities, and documents purporting to be EPA-generated were falsified. The incarceration will be followed by three years of supervised release. Contact: Patricia Hick, 212-637-3137.

Stipulation Filed Resolving Stipulated Penalties in RCRA-UST Case

On July 12, 2016, the US Attorney's Office for the Eastern District of New York filed, on EPA's behalf, a Stipulation of Settlement of Stipulated Penalty Claims and a Confession of Judgment in a RCRA-UST enforcement case. The Stipulation and Confession of Judgment are to resolve the United States' demand for stipulated penalties for the alleged violations by the "Finkelstein Entities" (fourteen companies affiliated with Richard Finkelstein, an individual) of the UST consent decree entered in *U.S. v. Citygas Gasoline Corporation, et al*, Civil Action No. 03-6374, on October 22, 2012. In these filings, the Finkelstein Entities acknowledge their indebtedness to the United States for \$125,000 in stipulated penalties for the violations at three gasoline service stations the Finkelstein Entities continue to own and operate in Bronx and Queens, New York. Besides failures to test automatic line leak detectors and to submit and certify required reports, the violations included failures to establish security interests required by the consent decree. As part of the settlement, additional security interests will be established. Contact: Naomi Shapiro, 212-637-3221.

Region 3

Regular Highlights:

Enforcement and Compliance Assurance Issues

Region III Settles CERCLA and EPCRA Matter Against Hanover Foods Corp. in Ridgely, MD [Docket No. CERC/EPCRA-03-2016-0153]

On July 13, 2016, EPA filed a Consent Agreement and Final Order, which initiated and settled EPA's penalty claim for violations of CERCLA Section 103 and EPCRA Section 304, in connection with a release of approximately 1,782 pounds of ammonia on October 2, 2014 from Respondent's vegetable processing and distribution facility located at 502 Factory Lane, Ridgely, Maryland (the Facility). The Consent Agreement asserts that Respondent failed to immediately notify the National Response Center, the State Emergency Response Commission (SERC), and the Local Emergency Planning Committee (LEPC) as soon as Respondent knew or should have known that the October 2, 2014 release of ammonia, an extremely hazardous substance, exceeded the 100 pound reportable quantity (RQ) for ammonia. Additionally, the Consent Agreement asserts that Respondent failed to provide a written follow-up emergency notice, as soon as practicable, to update the SERC and LEPC regarding the October 2, 2014 release of ammonia from the Facility. Respondent has agreed to pay a penalty of \$83,548 to settle the matter. Contact: Elizabeth Lukens, 215-814-2661; Perry Pandya, 215-814-2167.

Region Sends Opportunity to Confer Letter to Lititz Borough Regarding MS4 Permit Violations

On July 13, 2016, the Region sent an Opportunity to Confer (OC) letter to Lititz Borough, Pennsylvania. An inspection conducted in October 2014 identified several deficiencies in the Borough's MS4 program. At the time of the inspection, the Borough had not implemented a SWMPP, an illicit discharge detection and elimination program, post-construction stormwater management or a program for pollution prevention and good housekeeping for municipal operations. The OC letter offers Lititz an opportunity to resolve the violations through settlement. A settlement would result in an Administrative Order on Consent to correct the violations and a Consent Agreement and Final Order assessing a penalty. Lititz has thirty days from receipt of the letter to let EPA know whether it is interested in settlement. Contact: Deane Bartlett, 215-814- 2776; Joy Gillespie, 215-814-2793.

Show Cause Letter Issued to Zekelman Industries in Wheatland, PA, for EPCRA Violations

On July 13, 2016, EPA issued a Show Cause letter to Zekelman Industries, Inc., d/b/a Wheatland Tube Company, the owner and operator of a manufacturing facility located at 1 Council Avenue in Wheatland, Pennsylvania, for alleged EPCRA 304 and EPCRA 312 violations. The letter sought penalties of \$36,920 in connection with the facility's failure to immediately report the August 22, 2013 release of 6,505 pounds of sulfuric acid to the State Emergency Planning Commission, submit the required written follow-up report, or to timely submit annual inventory forms to the State Emergency Response Commission (SERC) for calendar year 2012 for 12

hazardous chemicals present at the facility. Contact: Cynthia Weiss, 215-814-2659; Anne Gilley, 215-814-3293.

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Region 4

Regular Highlights:

Enforcement and Compliance Assurance Issues

Indictment in Welch Group Environmental Criminal Case

A five count indictment was returned on July 12, 2016, in the District of South Carolina, charging Welch Group Environmental and owner Glenn Welch with four counts of RCRA violations relating to illegal storage and disposal; specifically, 42 USC § 6928(d)(2)(A). The indictment also charged both defendants with one count of knowing endangerment under the Clean Air Act; specifically, 42 USC § 7413(c)(5)(A).

The indictment was the result of an investigation into the re-melting of spent ammunition collected from gun ranges across the southeastern United States. Welch Group Environmental (WGE) operated at two locations in South Carolina where the spent ammunition was sorted and re-melted. The entire process was operated without any equipment to regulate or control the emissions and protect workers from fumes and dust resulting in significantly high blood lead levels in WGE employees. WGE also did not follow any RCRA regulations for the storage or disposal of the hazardous waste generated from the re-melting operation. The sites are both being remediated by WGE pursuant to CERCLA orders. Contact: Jennifer Lewis, 404-562-9518.

Region 5

Regular Highlights:

Enforcement and Compliance Assurance Issues

Fourth Person Charged for Violating CWA by Discharging Oil Drilling Waste into the Mahoning River [United States v. David N. Jenkins]

On June 9, 2016, David N. Jenkins was charged in a one-count information accusing Jenkins with directing the illegal discharge of oil drilling wastes into a stormwater drain on numerous occasions. The drain flowed into an unnamed tributary of the Mahoning River and ultimately into the Mahoning. The information alleges that Jenkins worked for Hardrock Excavating LLC in Youngstown, Ohio. Hardrock provided services to the oil and gas industry including the storage of waste liquids generated from oil and gas well drilling operations. Benedict W. Lupo was the owner of Hardrock. Starting on or about December 12, 2012, and continuing through on or about January 31, 2013, Lupo directed Michael P. Guesman, another Hardrock employee, to empty some of the waste liquid being stored at the Hardrock facility into a nearby stormwater drain. On those occasions when Lupo could not speak with Guesman directly, Lupo directed Jenkins to direct Guesman to empty the waste liquids into the stormwater drain at night.

Previously Lupo, Hardrock, and Guesman were charged and convicted in this matter. This case is was investigated by the U.S. EPA Criminal Investigation Division, the Ohio Bureau of Criminal Identification and Investigation, the Ohio Environmental Protection Agency, and the Ohio Department of Natural Resources, all members of the Northeast Ohio Environmental Crimes Task Force. Contact: Brad Beeson ,440-202-4442.

Former Cleveland Nonprofit Official and Contractors Plead Guilty to Charges of Public Corruption and Improper Lead Paint Abatement [United States v. James Todt, et al.]

In separate hearings between June 13, and June 21, 2016, James Todt, Lizandro Orellana, Chris Peterson, and Modern Construction Group LLC (“Modern”) plead guilty to public corruption charges involving cash bribes and kickbacks. In addition, Orellana and Modern plead guilty to violating the rules concerning the proper abatement of lead-based paint in homes. The information alleged that the Cleveland Housing Network (“CHN”), a recipient of HUD funding, awarded contracts for the rehabilitation abandoned homes in Cleveland, Ohio. Todt, as a manager at CHN, requested and received things of value in exchange for approving and steering CHN contracts to Orellana and Peterson. In addition, Todt submitted false invoices to CHN which were deposited into his personal bank account. Lastly, many of the homes rehabilitated by Modern contained lead-based paint. At the direction of Orellana, the lead-based paint was abated inconsistent with the applicable rules and the last count of the Information charged Orellana and Modern with this violation.

This case was investigated, in a joint investigation, by the FBI, HUD-OIG, U.S. EPA-CID, Ohio EPA, Ohio Bureau of Criminal Investigation, Ohio Department of Health – Environmental Compliance Program, and the Cleveland Division of Police. Contact: Brad Beeson, 440-202-4442.

Chief Financial Officer Pleads Guilty to Defrauding a Company out of \$1.2 Million [United States v. Christopher L. Gattarello, Robert A. Shaw Sr., and William S. Jackson, Jr.]

On June 7, 2016, Robert A. Shaw pled guilty related to his role in defrauding a financial company out of approximately \$1,200,000. Sentencing has been scheduled for August 30, 2016. According to the indictment, Shaw was the chief financial officer for several garbage hauling companies owned and operated by co-defendant Christopher L. Gattarello. The indictment charged that Gattarello, along with Shaw, defrauded AIM Business Capital, LLC, a company that specializes in factoring, of approximately \$1.2 million during 2012. The indictment also charged Gattarello with directing William S. Jackson to demolish the former National ACME building in Cleveland, without first abating the asbestos from the facility during 2012. Trial concerning demolition charges pending against Jackson, the remaining defendant, is scheduled for July 28, 2016.

This case was investigated by the U.S. EPA Criminal Investigation Division, the Ohio Bureau of Criminal Identification and Investigation, the Ohio Environmental Protection Agency, the Federal Bureau of Investigation, and the Internal Revenue Service. Contact: Brad Beeson, 440-202-4442.

Region 6

Regular Highlights:

Enforcement and Compliance Assurance Issues

EPCRA Consent Agreement and Final Order Issued to Kraft Heinz Foods Company, Garland, TX

On July 5, 2016, a Consent Agreement and Final Order (CAFO) was issued to Kraft Heinz Foods Company ("Kraft Heinz") to resolve a violation of Section 313 of the Emergency Planning & Community Right-to-Know Act for its facility in Garland, Texas. The violation was discovered during an investigation initiated in July of 2015, when the EPA conducted a review of Kraft Heinz' reporting of toxic chemical releases and waste management. The EPA discovered one count of failure to timely report ammonia for 2012. Under the terms of the CAFO, Kraft Heinz has corrected the violation and will pay a civil penalty of \$16,870,000. Contact: David Riley, 214-665-7298.

CWA Inspection of Ft. Hood Federal Facilities

On July 7-8, 2016, Storm Water Team members conducted two construction inspections at Ft. Hood, Texas. The inspections were performed by contractors of the USACOE and by the Ft. Hood Water Authority (American Water). The inspections were coordinated with the Ft. Hood MS4 and gave EPA an idea of the status of the Ft. Hood MS4 program. Contact: Everett Spencer, 214-665-8060; Linda Smith, 214-665-6641.

Webinar Presentation of the Enforcement Targeting Tool Assistant

On July 7, 2016, Region 6 drinking water enforcement staff presented the second of two webinars on use of the Enforcement Targeting Tool Assistant Webinar (ETTA) software to EPA staff at HQ and other EPA regions. Approximately 100 persons attended the two webinars. ETTA was created by the R6 drinking water program and enforcement staff to help states analyze their SDWIS State data to generate a real-time assessment of out of compliance systems and compare this data side-by-side with quarterly data from SDWIS Fed. ETTA. It also helps to standardize data entry methods, while identifying and resolving discrepancies between Federal and State data. Coordination is well underway with EPA HQ and the Cadmus contractor for the national rollout of ETTA to all states by the end of the fiscal year. Contact: Hannah Branning, 214-665-7489; Tonia Biggs, 214-665-8551.

Stipulated Penalties Paid by Formosa Plastics Corporation, TX

Pursuant to Civil Action No. 6:09-cv-00061, *United States v. Formosa Plastics Corp., Texas, et al.*, and a First Amendment to the consent decree, Region 6, on May 23, 2016, signed a demand for stipulated penalties requiring Formosa Plastics Corporation, Texas and Formosa Hydrocarbons, Inc. ("Formosa") to pay \$24,150. In accordance with the amendment to the consent decree, Formosa agreed to pay stipulated penalties of \$175 for each component that Formosa identified during the evaluation of its facilities, prescribed by the Amendment to the consent decree. In its correspondence dated June 24, 2015, Formosa reported discovery of 138

valves in the EDC unit that were not monitored from June 2014 to May 2015. Since February 2016, Region 6 legal has been working with the air program to review the reports and consent decree and has confirmed the noncompliance and assessment of the stipulated penalties. Further, Region 6 legal communicated with DOJ and obtained DOJ's concurrence on Region 6's decision to issue the demand. Counsel for Formosa and the Region 6 attorney have discussed this matter on several calls. Formosa decided not to invoke the dispute resolution provisions of the consent decree and, on July 6, 2016, Formosa paid the stipulated penalties of \$24,150,000. Contact: Sarah Frey, 214-365-6499; Marcia Moncrieffe, 214-665-7343.

SDWA Corrective Action Plan Submitted by Pueblo of Laguna, Laguna, NM

On June 29, 2016, the Pueblo of Laguna submitted a Corrective Action Plan (CAP) to address Surface Water Treatment Rule requirements under the Safe Drinking Water Act. The CAP was submitted for EPA approval to implement improvements at the Laguna Paguete public water system; to comply with the SWTR requirements to install a surface water filtration and continuous disinfection system to address cryptosporidium and other surface water related micro-organisms; and to address significant deficiencies that were identified during a recent compliance inspection. Under the CAP, work will be completed by December 2016. Contact: Ellen Chang-Vaughan, 214-665-3728; Chelo Hall, 214-665-2716.

SDWA Corrective Action Plan Submitted by Jicarilla Apache Nation, NM

On June 29, 2016, the Jicarilla Apache Nation submitted a Corrective Action Plan (CAP) to address Surface Water Treatment Rule requirements under the Safe Drinking Water Act (SDWA). Under the CAP, a schedule was submitted to address significant deficiencies identified during a SDWA compliance inspection; issues with failure to meet turbidity action levels; an assessment management plan to identify and address any obstructions that may prevent efficient operation of the plant; and obtain two more certified water operators, by September 1, 2016. Contact: Ellen Chang-Vaughan, 214-665-3728; Chelo Hall, 214-665-2716.

Motion for Entry of Disputed Protective Order Filed by Luminant in NSR Litigation

On July 6, 2016 Luminant filed a Motion for Entry of Disputed Protective Order in the NSR litigation. In the motion, Luminant asked the court to protect not only material exchanged in the discovery process, but also material received by EPA prior to the commencement of the litigation pursuant to its Section 114 authority. EPA's response to the motion is due August 1, 2016. Contact: Anupa Ahuja, 214-665-2701; Leonard Schilling, 214-665-7166.

Court Grants U.S. Motion to Enter Consent Decree [*United States of America et al v. Mosaic Fertilizer, LLC*, 2:15-cv-04889-CJB-KWR]

On July 6, 2016, Judge Carl Barbier, Eastern District Court of Louisiana, signed the order granting the United States Motion to Enter, which was filed on June 24, 2016. Since the filing of the complaint and notice of lodging of consent decree (September 30, 2015), the Department of Justice ("DOJ") received a total of 117 comments in response to the federal register notice published at 80 Fed. Reg. 60717 (October, 7, 2015). Over the last ten months, Region 6 worked with DOJ, HQs, Region 4, and Louisiana Department of Environmental Quality ("LDEQ") to review and provide responses to comments and other consent decree documents. Although a

revised consent decree was filed on June 24, 2016, the revisions were as a result of changes made and agreed upon by the parties and none were attributed to the public comments and/or changed the substance of the settlement. This case is now in the compliance phase, which is estimated to run for another 50 years. The EPA (HQs and R6) and the LDEQ have constructed a cooperative enforcement agreement that delineates areas of responsibilities for a review and approval process, which will ensure Mosaic's compliance with the consent decree requirements and in a timely manner. Contact: Marcia Moncrieffe, 214-665-7343; Joel Dougherty, 214-665-2281.

OGC Issues

Court Approves Extension on SO₂ Designations

On June 2, 2010, EPA revised the primary sulfur dioxide (SO₂) National Ambient Air Quality Standard by establishing a new 1-hour standard at a level of 75 parts per billion. EPA is under a Consent Decree to designate, no later than July 2, 2016, areas where the nation's largest SO₂ emissions are located, including 20 Region 6 sources. The parties to the Consent Decree (United States, Sierra Club, and Natural Resources Defense Council) agreed to an extension, until August 31, 2016, of the designation for one area in Oklahoma (Muskogee County) and four areas in Texas (Freestone, Milam, Rusk, and Titus Counties). On June 20, 2016, the Court approved the extension. Contact: Joshua Olszewski, 214-665-2178.

Public Notice of Consent Decree Establishing Deadlines to Act on Louisiana Regional Haze

On July 7, 2016, in accordance with CAA section 113(g), EPA published notice in the *Federal Register* of the proposed consent decree (CD) to address a lawsuit filed by Sierra Club: *Sierra Club v. EPA*, No. 15-cv-01555 (D.D.C.). 81 FR 44301. In 2012, EPA issued two rules disapproving certain aspects of a state implementation plan (SIP) submitted by Louisiana to address regional haze. 77 FR 39425; 77 FR 33641. In their lawsuit, Sierra Club alleges that EPA failed to meet the requirement of the CAA that the Agency promulgate a federal implementation plan (FIP) within two years of disapproving a SIP, in whole or in part. The proposed CD would resolve the lawsuit filed by requiring EPA to propose an action to address all our outstanding obligations on Louisiana regional haze by March 31, 2017 and take final action on the same by December 15, 2017. For thirty days following the date of publication of the notice, EPA will accept written comments relating to the proposed CD. After the 113(g) process concludes, unless EPA determines that the CD should be withdrawn on the basis of comments received, the CD will be affirmed and entered with the court. Contact: Carrie Thomas, 214-665-7121.

Region 7

Regular Highlights:

Enforcement and Compliance Assurance Issues

Penalty Order Negotiated with two Missouri Counties in CWA Section 404 Enforcement Action

On July 5, 2016, EPA finalized two Consent Agreements and Final Orders with Gasconade and Warren Counties in Missouri to address alleged violations of the CWA. EPA alleged that both Counties violated Section 404 of the CWA when they placed dredged and/or fill material into waters of the United States without obtaining a required CWA Section 404 permit from the US Army Corps of Engineers. Specifically, Respondents placed the dredged and/or fill material into several streams in association with gravel mining operations, impacting approximately 5,000 collective linear feet of stream. Respondents agreed to pay \$3,000 each in civil penalties in settlement of the enforcement action. Contact: Chris Muehlberger, 913-551-7623.

Region 7 Issues a CERCLA Unilateral Administrative Order to SV Land, LLC:

On July 12th, Region 7 transmitted a Unilateral Administrative Order (“UAO”) issued pursuant to Section 106(a) of CERCLA to SV Land, LLC of Washington, Missouri. This Site, currently known as the “Sporlan Valve Plant 1 Site,” is the former location of a Sporlan Valve Company manufacturing plant, which manufactured refrigeration valves. The Site consists of an unoccupied four-acre parcel at 611 East 7th Street in Washington, Franklin County, Missouri, and a groundwater contaminant plume originating at the property and migrating beyond the property boundaries. Analytical results from samples collected by MDNR document that trichloroethylene (“TCE”) been released into the soil and groundwater at the Site. TCE has migrated through groundwater and through vapors from contaminated groundwater into nearby residences. Actual vapor intrusion exposure has been documented at the Site, and there is a potential for additional vapor intrusion to occur at the Site.

The UAO requires SV Land, LLC to install and ensure effectiveness of a vapor mitigation system (VMS) in 23 structures where sub-slab and/or indoor air concentrations of TCE, DCE, VC or benzene exceed site action levels, or in structures identified to be eligible for pre-emptive mitigation. The VMS will include installation of a sub-slab VMS or crawl space depressurization system, including an electric fan; sealing cracks in walls and floors of the basement; and sealing drains that could be a pathway. The VMS will be designed to control levels of VOCs in residences to below sub-slab and indoor air screening levels. Contact: Kristen Nazar, 913-551-7450.

Region 9

Regular Highlights:

Enforcement and Compliance Assurance Issues

RCRA Consent Agreement and Final Order with Bachem Americas, Inc.

On June 27, 2016, Region 9 entered into a Consent Agreement and Final Order (“CA/FO”) with Bachem Americas, Inc. that resolves violations of Section 3008(a) of the Resource Conservation and Recovery Act and applicable state regulations at the Bachem facility in Torrance, California. The CA/FO requires Respondent to pay a civil penalty of \$22,376 and perform a Supplemental Environmental Project in which Respondent will purchase \$29,000 worth of emergency response equipment, i.e., laptops and tablets, for the Torrance Fire Department. Contact: Rebekah Reynolds, 415-972-3916.

OGC Issues

Ninth Circuit to Hear Oral Arguments Regarding EPA CAA PSD Permit for Biomass Project [*Helping Hand Tools v. EPA*]

On July 19, 2016, the U.S. Court of Appeals for the Ninth Circuit will hear oral arguments in *Helping Hand Tools v. EPA*, regarding a challenge to a 2014 CAA PSD permit issued by EPA to Sierra Pacific Industries for a new cogeneration project, including a 468 MMBtu/hour biomass boiler, at SPI’s facility in Anderson, California. Petitioners’ claims related to “clean fuels,” including solar, natural gas, and different forms of biomass. Contact: Kara Christenson, 415 972-3881.

Region 10

Regular Highlights:

Enforcement and Compliance Assurance Issues

Region 10 Settles EPCRA 312 Violations with Coastal Manufacturing, Everett, WA

On July 8, 2016, Region 10 filed an expedited settlement agreement with Coastal Manufacturing in Everett, Washington to address violations of the hazardous substances inventory reporting requirements of the Emergency Planning and Community Right-to-Know Act. The company agreed to pay a penalty of \$5,000. Contact: David Magdangal, 206-553-4044.
